

2013 LEGISLATIVE SESSION WRAP-UP

Listed below are brief summaries of five bills that passed during the 2013 legislative session that effect the alcoholic beverage industry in Montana. Copies of the bills can be found at <http://leg.mt.gov/css/>. As the department transitions into administering this legislation, administrative rules will be proposed to enhance the public and alcoholic beverage industry's understanding of the change in statutes.

HB 402 LICENSE AND REGULATE WINERIES SELLING AND SHIPPING WINE DIRECTLY TO CONSUMERS

House Bill 402 was sponsored by Representative Hunter and creates a direct shipment endorsement for wineries licensed or registered in Montana. The bill effective date is October 1, 2013.

The bill creates a direct shipment endorsement for wineries licensed or registered in Montana. This endorsement would apply to both in-state and out-of-state wineries and would allow wineries to sell up to 18 9-liter cases of table wine annually to individuals over the age of 21 for personal use. The endorsement costs \$50 per winery per year. Wineries that hold a direct shipment endorsement will be required to report and pay tax monthly on table wine directly shipped to consumers.

House Bill 402 also eliminates the wine connoisseur's license and the combined beer and wine connoisseur's license. The beer connoisseur's license will remain in statute.

Foreign wineries will be able to apply for the direct shipment endorsement on their 2013-2014 renewal form, as the effective date of the bill aligns itself with the licensing period. These renewals go out during mid-August and are effective October 1.

Domestic winery licenses expire on Jun 30, 2013. Due to the effective date of the bill, domestic wineries will not be able to apply for the direct shipment endorsement at the time of renewal. These renewals go out during mid-May and are effective July 1. Instead, the department will notify all domestic wineries closer to the effective date of the bill to allow an opportunity to apply for the endorsement prior to October 1.

Wine connoisseurs will have the option to lapse their license that expires on June 30 or renew their license for the short three-month period of July 1 to September 30. Wine connoisseur licensees will be responsible to report and pay the tax for shipments received during this period. An informational letter will be sent to all current wine connoisseur licensees, mid-May, outlining further information regarding the change in law.

SB 294 GENERALLY REVISES ALCOHOL ENFORCEMENT LAWS REGARDING PENALTIES

Senate Bill 294 was sponsored by Senator Arntzen and authorizes the department to adjust penalties related to violations by a licensed brewer, winery, wholesaler, or retailer based on mitigating and aggravating circumstances. Senate Bill 294 has an effective date of October 1, 2013.

The bill gives examples of both mitigating and aggravating circumstances for the department to consider.

Examples of mitigating circumstances include:

- There have been no violations by the licensee within the past 3 years;

- There have been good faith efforts by the licensee to prevent a violation;
- Written policies exist that govern the conduct of the licensee's employees;
- There has been cooperation in the investigation of the violation that shows the licensee, employee, or agent accepts responsibility;
- The investigation was not based on complaints received or on observed misconduct, but was based solely on the investigating authority creating the opportunity for a violation; or
- The licensee has provided responsible alcohol server training to all of their employees.

Examples of aggravating circumstances include:

- Prior warnings about compliance problems;
- Prior violations within the past 3 years;
- Lack of written policies governing employee conduct;
- Multiple violations during the course of the investigation;
- Efforts to conceal a violation;
- The intentional nature of the violation; or
- Involvement of more than one patron or employee in a violation.

The bill does not require the department to take a specific action based on the circumstance, but allows the department to consider them as the violation is reviewed.

SB 120 INCREASE FROM 1 TO 3 THE NUMBER OF LIQUOR LICENSES AN INDIVIDUAL MAY HAVE

Senate Bill 120 was sponsored by Senator Buttrey and increases the number of all-beverage licenses that an individual may possess an ownership interest in from one to three effective October 1, 2013.

Current law restricts the ownership of all-beverage licenses to one per person.

The bill language prevents an individual from having an interest in more than half the total number of allowable all-beverage licenses in any quota area. For example, if the quota area allows for 5 all-beverage licenses, an individual may only hold two of those licenses.

The bill also prevents two or more individuals through business or a family relationship that share in the profits or liabilities of the all-beverage licenses to exceed half of the total number of allowable all-beverage licenses in the quota area.

Individuals pursuing additional licenses may begin submitting the necessary paperwork to the department on July 1; however, approval will not occur until at least October 1.

HB 524 REVISE REQUIREMENTS FOR THE RETAIL SALE OF BEER OR WINE FOR OFF-PREMISES CONSUMPTION

House Bill 524 was sponsored by Representative Clark and revises the requirements to operate a retail license to sell beer, table wine or both for off-premises consumption. The bill is effective October 1, 2013.

Prior to the passage of this legislation, in order to operate an off-premises beer and/or table wine license, the premises had to operate as a bona fide grocery store or a drugstore licensed as a pharmacy.

House Bill 524 allows for establishments to sell beer and/or table wine for off-premises consumption without operating as a bona fide grocery store or drugstore licensed as a pharmacy. However, if the premises is operated in conjunction with another business, that business must be a grocery store or drugstore licensed as a pharmacy.

The department is in the process of updating the retail off-premises beer and/or table wine application and plans to have it available by October 1, 2013.

SB 266 REVISE LAWS RELATED TO SACRAMENTAL WINE

Senate Bill 266 was sponsored by Senator Rosendale and revises laws related to sacramental wine. Senate Bill 266 has an effective date of July 1, 2013.

The bill allows the department to issue a sacramental wine license to an establishment located in or outside of Montana that sells church supplies, including sacramental wine at retail to priests, pastors or other church officials for religious purposes. The sacramental wine licensee is prohibited from selling sacramental wine to the public according to the bill.

The bill defines sacramental wine as wine containing not more than 24 percent alcohol by volume that is manufactured and sold exclusively for use as sacramental wine or for other religious purposes. The bill further allows table wine distributors the ability to sell sacramental wine to retailers that are licensed to carry such product but within the appropriate alcohol by volume levels.

The bill allows a sacramental wine licensee to deliver the sacramental wine to the religious organization's premises by using the licensee's own employees and equipment, contracting with a licensed table wine distributor or contracting with a common carrier. Sacramental wine shipped by a common carrier must be properly marked with the following statement: "Wine Shipment from Sacramental Wine Licensee for Religious Purposes Only. Contains Alcohol: Signature of Person 21 Years of Age or Older Required for Delivery".

An out-of-state sacramental wine licensee is responsible for reporting and paying the tax on any shipments of sacramental wine made to religious organizations. A foreign winery that ships sacramental wine to in-state sacramental wine licensees is responsible for reporting and paying the tax on any shipment of sacramental wine. Lastly, a table wine distributor that ships sacramental wine to in-state sacramental wine licensees or retailers is responsible for the reporting and tax payment.

The department is in the process of updating the Sacramental Wine License application and plans to have it available by July 1.